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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/581,840
Filing Date	June 5, 2006
First Named Inventor	Adnan M.M. Mjalli et al.
Art Unit	1631
Examiner Name	To be Assigned
Attorney Docket Number	TTP 2003-09

### ENCLOSURES (check all that apply)

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment / Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s)<br>(please identify below):<br>See Remarks |
|--|--|---|

### Remarks

Express Mail Certificate EV 740582127 US;  
Credit Card Payment Form PTO-2038 for \$1,125;  
Notification of Error in Payment as a Small Entity Status and Request That Error be  
Excused Under 37 CFR 1.28(c) (5 pages); and  
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### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	Kilpatrick Stockton LLP		
Signature			
Printed Name	Charles W. Calkins		
Date	March 21, 2007 3/26/07	Reg. No.	31,814

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Adnan M.M. Mjalli, et al.  
Serial No. : 10/581,840  
Filing Date : June 5, 2006  
Title : Ligands for I7L as Modulators of Orthopox  
Viruses and Methods for Discovery Thereof  
Examiner : To be assigned  
Group Art Unit : To be assigned  
Atty. Docket : TTP 2003-09

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Notification Of Error In Payment As A Small Entity Status and Request That Error Be  
Excused Under 37 CFR 1.28(c)**

Sir:

This paper is being filed pursuant to 37 CFR 1.28(c).

37 CFR 1.28(c) states:

*c) How errors in small entity status are excused. If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section:*

*(1) Separate submission required for each application or patent. Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent. Where*

*more than one application or patent is involved, separate submissions of deficiency payments (e.g., checks) and itemizations are required for each application or patent. See § 1.4(b).*

*(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.*

*(i) Calculation of the deficiency owed. The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;*

*(ii) Itemization of the deficiency payment. An itemization of the total deficiency payment is required. The itemization must include the following information:*

*(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;*

*(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;*

*(C) The deficiency owed amount (for each fee erroneously paid); and*

*(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.*

*(3) Failure to comply with requirements. If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.*

In accordance with the above-identified rule, Applicants present the following relevant facts.

### **Facts**

When this application was filed on June 5, 2006, each of the inventors was under an obligation to assign all of their rights in the application to TransTech Pharma ("TransTech") and assignments were subsequently recorded with the United States Patent and Trademark Office (USPTO). Entitlement to small entity status was asserted, and the application was accorded small entity status by the USPTO.

After the filing fee was paid, it was discovered that TransTech did not qualify for small entity status when the filing fee was paid on June 5, 2006. In other words, small entity status was asserted in good faith, but in error, at the time the filing fee was paid, and this fact was only discovered by TransTech after payment of the filing fee.

### **Remarks**

The present application was filed on June 5, 2006. Based on the good faith belief that TransTech qualified as a small entity when this application was filed, entitlement to small entity status was asserted for this application. The USPTO accorded small entity status to this application, and small entity fees have been paid throughout the prosecution of the application.

In accordance with 37 CFR 1.28(c), Applicants respectfully request that the erroneous payment of small entity fees be excused.

In accordance with 37 CFR 1.28(c)(2), Applicants respectfully submit that the deficiency owed to the USPTO is \$1,125. Enclosed is Form PTO-2038, Credit Card Payment Form, authorizing payment of \$1,125, which represents the difference between the filing fees that should have been paid and the total fees paid to date including the filing fees paid on June 5, 2006, and the fee correction on February 22, 2007.

In accordance with 37 CFR 1.28(c)(2)(ii)(A-D), the following provides an itemized list of the deficiency payment:

Type of Fee Erroneously Paid	Current Fee Amount for Non-Small Entity	Small Entity Fee Paid	Date Paid	Deficiency Owed
Basic National Fee	\$300.00	\$150.00	06/05/2006	\$150.00
Examination Fee	\$200.00	\$100.00	06/05/2006	\$100.00
Search Fee	\$400.00	\$200.00	06/05/2006	\$200.00
Excess Independent Claims Fee	\$1,200.00	\$600.00	06/05/2006	\$600.00
Application Size Fee	\$250.00	\$ 50.00	06/05/2006	\$75.00
		\$125.00	02/22/2007	
<b>Total Deficiency Owed:</b>				<b>\$1,125.00</b>

Pursuant to 37 CFR 1.33(b), a patent practitioner or recorder who is appointed in compliance with 37 CFR 1.32(b) has signed this document.

Applicants believe that no additional fee other than the fee discussed above is necessary, however, should a fee be deemed to be necessary, the Commissioner is hereby authorized to charge any fees required by this action or any future action to Deposit Account No. 16-1435.

Adjustment date: 03/30/2007 MKAYPAGH  
 06/13/2006 MKAYPAGH 00000075 10581840  
 01 FC:2631 -150.00 OP  
 02 FC:2642 -200.00 OP  
 03 FC:2633 -100.00 OP  
 04 FC:2614 -600.00 OP

Adjustment date: 03/30/2007 MKAYPAGH  
 02/07/2007 SVIGIL 00000002 161435 10581840  
 01 FC:2681 125.00 CR

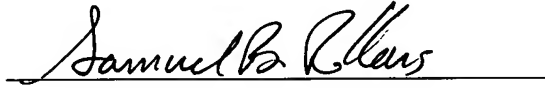
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 J. Huff*

03/30/2007 MKAYPAGH 00000085 10581840  
 01 FC:1631 300.00 OP  
 02 FC:1642 400.00 OP  
 03 FC:1633 200.00 OP  
 04 FC:1614 1200.00 OP  
 05 FC:1681 250.00 OP

Should the Examiner have any questions relating to the instant application, the Examiner is invited to telephone the undersigned at (336) 841-0300 (Ext. 159) to discuss any issues.

Respectfully submitted,

Date: March 21, 2007



Samuel B. Rollins (Reg. No. 52,180)

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Date: 3/26/07



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## EXPRESS MAIL CERTIFICATE

"Express Mail" Label No. : EV 740 582 127 US

Applicant(s) : Adnan M.M. Mjalli et al.

Serial No. : 10/581,840

Title : Ligands for I7L as Modulators of Orthopox Viruses and Methods for Discovery Thereof

Filing Date : June 5, 2006

Examiner : To be Assigned

Group Art Unit : 1631

Atty. Docket : TTP 2003-09

Type of Document(s) : Express Mail Certificate;  
Transmittal Form;  
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Notification of Error in Payment as a Small Entity Status  
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Sue H. Memory (signature)  
Sue H. Memory

*Date Mailed: March 26, 2007*